

## Long Term Sickness Absence Policy and Procedure

### Introduction

Cotswold District Council prides itself on being an employer of choice. With an incredibly varied role in delivering the very best for our residents, communities and businesses, our employees are committed and really make a difference. In return we seek to support and empower our employees, to give their best.

Having a culture that is diverse, equitable and inclusive is core to everything that we strive to achieve and key to the creation of a positive organisational environment. CDC is also committed to promoting the health and wellbeing of all employees and we wish to offer supportive and effective management of absence due to ill-health and a positive healthy culture that empowers managers to handle sensitive situations in the correct way.

Cotswold District Council is committed to dealing fairly and sympathetically with employees who are absent from work for long periods because of ill health and aim to assist them with their rehabilitation and eventual return to work.

CDC will always treat employees fairly and sensitively during times of sickness and ill health, it must also pay due regard to its operational needs. By implementing this policy, CDC aims to strike a reasonable balance between the pursuit of its operational needs and the genuine need of employees to take time off work because of ill health.

This policy recognises CDC is under a legal duty to consider making reasonable adjustments, and will do this in collaboration with the employee who becomes disabled or their disability worsens. This is to enable the employee to continue to carry out their role and to support any identified disadvantage being removed.

This policy does not form part of employees' terms and conditions of employment and may be subject to change at the discretion of the management.

### Definitions

The following definitions are used in this policy:

**"Absence management stages"** our step by step process for managing frequent Short-term sickness absence.

**"Period of sickness absence"** or **"instance of sickness absence"** means any continuous period of sickness absence, of whatever length, during which the employee does not work.

**"Short-term sickness absence"** means any period of sickness lasting one to 27 calendar days.

**"Long-term sickness absence"** means any period of sickness lasting 28 calendar days or more.

**"Formal review period"** means a defined period during which an employee is required to show an improvement in their sickness absence levels.

## Scope

This policy covers long-term sickness absence, which is defined as an absence lasting at least 28 calendar days. CDC operate a separate policy on short-term sickness absence, which is defined as an absence lasting one to 27 calendar days. - [hyperlink to the Sickness Absence policy](#).

Where an employee is on long-term sickness absence, but returns to work for short periods, we reserve the right to continue to manage their sickness absence under this policy, even in the case where an employee has returned to work for a short period.

This policy assumes that, if misconduct is suspected, our separate disciplinary procedure will apply, for example if there is evidence that:

- absence is not genuine or not for the reason provided
- the employee is undertaking inappropriate activities while off sick, such as carrying out work for another employer or
- the correct sickness absence notification and evidence procedure has not been followed.

Under our absence policy in cases of capability where an individual may be unable to fulfil their substantive role because of sickness or a disability, it may be appropriate to consider alternative action under the performance improvement and capability policy. Alternatively, there may be cases under our Absence management stages where the disciplinary procedure applies.

This policy applies to employees only and does not apply to contractors, consultants, agency workers or any self-employed individuals working for us.

## Employees' Responsibilities

Employees are expected to:

- provide medical evidence for sickness of more than seven calendar days (with sickness of seven calendar days or less being self-certified)
- continue to keep in touch with their manager while unable to attend work. How frequently this is should be agreed in advance with your line manager
- share as much information with their manager about the reason (i.e., the nature of the illness or injury) why they cannot attend work and how long they think the absence will last
- do what is possible to enable a return to work, for example by following medical guidance, taking steps recommended by healthcare professionals during rehabilitation, and not undertaking any activities while on sick leave that could exacerbate the health problem
- tell their manager of any extenuating circumstances, for example personal or family problems or an unmanageable workload
- bear in mind that we may seek a medical report, for example from their doctor or our occupational health advisers
- cooperate with the possible implementation of any adjustments to job duties, hours or working conditions, particularly those suggested by a healthcare professional and
- attend a return-to-work meeting when returning to work following long-term sickness absence.

## Medical Evidence

All sickness that lasts longer than seven calendar days requires medical evidence (with sickness of seven calendar days or less being self-certified). This medical evidence will normally be in the form of a fit note, also known as a "statement of fitness for work".

As well as being issued by doctors, fit notes can be issued by nurses, occupational therapists, pharmacists and physiotherapists who have assessed their fitness for work. Fit notes cannot be issued on request or via over-the-counter services without an assessment.

If the employee is absent for eight calendar days or more, their line manager must ensure that they provide a fit note as soon as possible. A fit note may state that the employee:

- is "not fit for work", in which case the employee should remain off work or
- "may be fit for work", if the recommendations are followed (for example, a phased return, amended job duties, altered hours of work, or workplace adaptations).

While there is no legal obligation to follow the recommendations, managers should take the recommendations seriously and give fair consideration - in consultation with the employee and Human Resources - as to whether any of the changes recommended can be accommodated.

The fit note will state the period that it covers, with a section for a start and end date. An employee on long-term sickness absence who is not returning to work on the next working day after the end date must obtain a new fit note.

### **Long term absence management stages**

The following procedure aims to provide a consistent approach to managing long term absence initially through informal interventions, and where attendance does not improve/attendance targets are not met and concerns continue, through a formal process.

#### **Managers are expected to keep in touch**

It is important that managers maintain contact with an employee on long-term sickness absence to:

- monitor the employee's progress in terms of their return to health
- support the employee and actively maintain their engagement with us
- provide information to the employee so that they may make informed decisions (for example, in relation to sick pay entitlement)
- provide practical support from our occupational health advisers
- encourage a return to work as early as possible
- facilitate a phased return to work if required, by making appropriate temporary or permanent adjustments and
- ensure that the employee remains informed about events in the workplace.

It is the joint responsibility of both the line manager and the employee to maintain contact. Once the employee is on long-term sickness absence (i.e. once the employee has reached 28 days' continuous absence), the employee's line manager should contact the employee to agree the method and frequency of contact. Contact should be on a regular basis and the frequency of this contact should be agreed mutually, but no less than monthly.

#### **Home visits**

In some circumstances, contact with an employee on long-term sickness absence can be maintained via home visits. Home visits will take place only with the prior consent of the employee at mutually agreed times.

Home visits will usually be conducted by the employee's line manager. The line manager will normally be accompanied by a representative from Human Resources. Where the employee is female, at least one of

the visitors should always be female. The employee may be accompanied during the visit if they wish, for example by a family member or an employee representative.

If the employee would prefer our representative not to visit them in the home, another location near the employee's home (such as a local cafe or leisure centre) could be mutually agreed.

### Sick Pay

CDC operates a contractual sick pay scheme that supplements Statutory Sick Pay and Employment and Support Allowance to maintain normal pay during defined periods of absence on account of sickness, disease, accident, or assault.

Providing you follow the correct procedure as detailed in this document, you will normally receive:

Year 1 of service	1 months' full pay (after 4 months' service)
Year 2 of service	2 months' full pay and 2 months' half pay
Year 3 of service	4 months' full pay and 4 months' half pay
During Year 4 and Year 5 of service	5 months full pay and 5 months half pay
After 5 years of service	6 months full pay and 6 months half pay

The Employee is required to cooperate fully with CDC when a medical referral to the Occupational Health Advisor is required.

The employee may be entitled to receive SSP if contractual sick pay is withheld or suspended, this may be in cases where we are not satisfied that the employee is ill, and no evidence of sickness is provided, or they remain within their probationary period for example.

Sick pay under our contractual scheme is subject to the usual deductions for PAYE, national insurance, pension contributions, etc.

Payments under our contractual scheme will be calculated by reference to the employee's salary only and any payments made under our contractual scheme are inclusive of any entitlement to SSP for the same period of absence.

### Holiday during Sick Leave

An employee who is absent on sick leave will continue to accrue their holiday entitlement and will be given the opportunity to take this at a later date, including in the subsequent leave year, if they do not take the holiday entitlement due to being on sick leave.

An employee may wish to use annual leave to support their gradual return to work following a period of absence. The manager will seek to accommodate any requests where possible.

An employee on sick leave may apply to take their holiday entitlement while on sick leave. The holiday dates must be approved by the line manager, in accordance with internal procedures.

## Medical Advice

### Occupational health referrals

At various stages of managing the employee's sickness absence, a manager may want to obtain advice on the employee's fitness for work from occupational health advisers. The manager should liaise with their HR Business Partner for support on this process.

Examples of when a line manager might refer to occupational health include:

- seek a medical report on the employee
- establish when the employee might be able to return to work
- ask for guidance on the employee's condition, for example if there is a possibility that the employee is disabled or where there is ambiguity as to the exact nature of the condition
- seek guidance on a referral for counselling or some other therapeutic support and
- discuss any adjustments that could be made to accommodate the employee's disability, if the employee is disabled.

CDC will treat personal data about you collected during the absence management process in accordance with its data protection policy / policy on processing special categories of personal data (this may include medical certificates or information given by you about your sickness). Information about how an employee's data is used and the basis for processing their data will be provided in the privacy notice which contains the data protection information. Where CDC is relying on its legitimate interests as the legal ground for processing an employee's data, you can object to the processing.

### Report from a medical practitioner who has been responsible for the employee's clinical care

Occupational Health may request a report from the employee's medical practitioner where necessary. The employee will be fully informed of their rights under the Access to Medical Reports Act 1988 and their permission will be sought for the report to be obtained.

The employee's permission will be sought to contact the medical practitioner on the relevant consent form, available from Human Resources.

The employee has the right to access the report before we see it. If the employee wishes to see the report, they should inform us of this, so that it can inform the medical practitioner. The employee will then have 21 days from the date of making the application for the report to contact the medical practitioner to see the report. If the employee does not contact the medical practitioner within this period, the medical practitioner can pass the report on to us.

When requesting a report, we will provide the medical practitioner with as much information as possible on the role of the employee and explain why the report is being sought. We will provide the medical practitioner with:

- a copy of the employee's signed form consenting to the request to seek a medical report
- confirmation that the employee is aware of their rights under the Access to Medical Reports Act 1988 and
- details of the major features of the employee's job.

We will ask the medical practitioner to identify:

- the nature of the employee's illness or injury
- when the employee is likely to be fully fit to resume their normal duties

- if the employee is unfit to resume their normal duties, what alternative duties they might be fit to undertake
- when the employee is likely to be fit to undertake any alternative duties
- what reasonable adjustments could be made to working conditions or work premises to facilitate a return to work and
- the likelihood of recurrence of the illness or injury once the employee has returned to work.

Where the employee refuses us permission to contact their medical practitioner, we will explain to the employee the reasons behind the request and inform the employee that a decision relating to their employment may be made without the benefit of access to medical reports. The same procedure will be followed where the employee delays in giving their consent.

Where the employee feels that the report is misleading or incorrect, they may ask the medical practitioner to amend it. If the medical practitioner does not agree with the employee and does not alter the report, the employee may attach a statement to the report to reflect their views.

Alternatively, having seen the report, the employee may request that access to the report be withheld from us. The employee will be informed that a decision relating to their employment may be made without the benefit of access to medical reports.

#### Report from a medical practitioner who has not been responsible for the employee's clinical care

The Access to Medical Reports Act 1988 does not apply where we are seeking a medical report from a medical practitioner who has not been responsible for the employee's clinical care, typically our own chosen specialist or occupational health adviser.

When seeking additional medical advice we will explain to the employee in writing what information we are seeking on the employee's health, why we are seeking additional information and how the information will be used. The letter should explain to the employee:

- that we intend to obtain a medical report and why we wish to do so
- from whom the report will be obtained
- what we will do with the report
- how we will treat personal data collected when obtaining the medical report and
- their right to object to the processing of their personal data.

We will write to the medical practitioner to request the report. The letter should explain to the medical practitioner why we are requesting the report and ask any specific questions that we wish the practitioner to answer.

Where the employee objects to the processing of their personal data when we are seeking to obtain a medical report to which the Access to Medical Reports Act 1988 does not apply, we will explain to the employee the reasons behind the request and inform the employee that a decision relating to their employment may be made without the benefit of access to medical reports.

#### Occupational Health Referral

Once an employee has been absent for 28 calendar days, or as soon as it is confirmed that they will be absent for at least 28 days (for example, a fit note has signed them off for that period), their manager should contact the occupational health department.

The line manager should also contact the employee to advise them that the occupational health department will be in touch, with a view to us seeking medical advice on the employee's prognosis.

## Return-to-Work Arrangements

Employees who have been on long-term sickness absence should be supported to return to their former post and way of working, but we recognise that this is not always possible. We see the value of phasing employees back to work, temporarily adjusting their duties, or redeploying them permanently if they cannot return to their previous role.

CDC understands that employees are more likely to remain at work and not go off sick again if they initially return to work on reduced hours and gradually build up their number of hours. We will always arrange a return-to-work meeting for an employee returning from long-term sickness absence. This may be during the period immediately prior to their return or on the first day back in work. Either way this will be discussed and agreed with the employee.

When the employee returns to work, the employee's line manager should arrange to reintroduce the employee back into the workplace and ensure that arrangements are made to support the employee on their return. These arrangements should include any agreed adjustments and (where necessary) a risk assessment.

### Phased return to work

A phased return to work could involve a variation in work hours, a gradual increase in hours, or an initial period during which the employee works from home on certain days. This would be to support an employee to transition from ill-health absence back to full (or sometimes permanently amended) work duties.

The phased return to work will usually arise following medical advice, which could be:

- a doctor's letter or medical report (such as an Occupational Health report) recommending a phased return; or
- one of the options on a fit note.

The line manager, with the support of Human Resources, should discuss how best to manage a phased return to work and what if any reasonable adjustment will be required. A phased return to work should not be considered where the employee remains unfit for any work.

### Next steps:

- The employee's line manager should invite the employee to a meeting to discuss the medical advice and the possibility of a phased return to work.
- The invitation, which should be in writing, should inform the employee in advance of the arrangements for the meeting, including who is to attend on our behalf.
- Issues such as mobility or work related stress will be taken into account when deciding on where the meeting will be held.

The meeting should focus on:

- reviewing any risks prohibiting a phased return to work
- determining a start date, initial scope of work and hours
- whether there will need to be any changes to the employee's work environment or workplace during the phased return to work and/or once the phased return to work is completed
- when and how the employee's work and hours will develop during any phased return to work
- what arrangements will be put in place to monitor the employee's progress during any phased return to work
- the employee's pay during any phased return to work and

- to whom the employee should report if there are any difficulties with their return to work.
- what risk assessments, if any need to be undertaken for workplace adjustments
- notes should be taken as to what has been discussed and agreed at the meeting and what review has been agreed in a return-to-work plan.
- the review period will require a further meeting, and the date and arrangements for the next meeting should be agreed at the end of the first meeting.
- The individual should be made aware of any impact to their salary. If sick pay has been exhausted consideration might be given to leave accrual for example.

### Temporary reassignment

Where an employee has been on long-term sickness absence, but is unfit to return immediately to their substantive role, even on a phased basis, their line manager should consider temporarily reassigning the employee to another role.

The possibility of a temporary role will depend on:

- the availability of work elsewhere and the employee's agreement to undertake the role.
- The employee's line manager should initially consider whether a different role is available within their department and, if it is not, widen the search to include other departments.
- The line manager should do this by liaising with HR about available vacancies in other departments in areas in which the employee's skills could be utilised.

The employee's existing rate of pay will be protected during the temporary reassignment and their salary will be paid by the department in which the employee normally works. Temporary placements to help an employee on long-term sickness absence will normally last no longer than six months and would be regularly reviewed during this period. Any reassignment should be discussed in full with the individual and a return to work plan documented.

### Permanent redeployment

We will consider redeployment where it appears unlikely from the medical advice that an employee on long-term sickness absence will be able to return to their existing role.

Any offer to redeploy the employee will be entirely at our discretion. Such an offer will be made only where we are confident that the employee is no longer able to continue to work in their current role and will be able to perform well in the redeployed role.

If you have a disability under the Equality Act 2010 you will have 'at risk' status. This means that you will have priority when we consider an alternative role with us. We will take a positive approach to redeployment. A trial period, on a four week basis, will be offered for alternative roles, to enable the employee and the new manager to assess whether the job is suitable. With the support of the HR Business Partner, the manager will be supported in identifying if there is a need to make reasonable adjustments to assist you to continue in work.

While the employee is free to refuse any offer of redeployment, the only alternative available will usually be dismissal. If we believe that there is no suitable alternative role available for the employee, we may be left with no option but to dismiss.

Should the employee choose to accept permanent redeployment, they will be asked to agree to a variation of contract that could impact existing contractual arrangements such as pay. However, continuous service should not be affected.



Before an employee is dismissed due to no suitable role being available or because they unreasonably refuse an offer of redeployment, a formal sickness absence meeting with the employee at risk of dismissal will be held. The employee has the right to be accompanied to such meetings by a work colleague or Trade Union representative. Such action may be considered with reference to the performance improvement and capability policy, or the disciplinary procedure.

If the employee is dismissed, they should be given the opportunity to appeal against the dismissal.

Any dismissal will be with full notice or payment in lieu of notice.

### Right to Representation

At any formal meeting you have the right to be represented by a work colleague or a Trade Union representative. However, consideration will be given to another person in exceptional circumstances.

### Return-to-Work Meetings

When an employee is returning to work following long-term sickness absence, their manager should:

- arrange to meet informally with them.
- ideally, the return-to-work meeting will take place prior to the employee's return to work, to allow time for any necessary adjustments to be made to the employee's working arrangements and conditions.
- if this is not possible, the return-to-work meeting should take place on the employee's first day back at work.
- the return-to-work meeting should take place in a private place, and all discussions between the employee and the manager will be deemed private and confidential.
- the return-to-work meeting could take place off-site at a location of the employee's choosing, should the employee be more comfortable with that approach.

During a return-to-work meeting after long-term sickness absence, the manager and employee should discuss:

- the arrangements for the employee's return to work, including any adjustments that are being made such as a phased return or homeworking
- what work the employee will be doing on their return to work, including an outline of work during the employee's first week back
- any medical issues of which the employer is not already aware, such as any updated guidance from a healthcare professional
- what arrangements will be put in place to monitor the employee's progress and
- to whom the employee should report if they have any difficulties with the arrangements.

At the end of the return-to-work meeting, the line manager and employee should

- agree their next meeting to monitor the employee's progress.
- if the return-to-work meeting takes place before the employee's return, this should be a short meeting on their first day back.
- if the return-to-work meeting takes place on the employee's first day back at work, this meeting should be at the end of the employee's first week back.
- during any of these return-to-work meetings you may, should you wish, choose to be accompanied by a colleague or Trade Union representative.

### Special Cases

### Pregnancy-related absences

Pregnant employees who are off work because of pregnancy-related ill health must abide by our absence reporting procedure. For example, a pregnant employee is subject to the usual notification and evidence requirements and should be asked to attend a return-to-work meeting when returning to work.

However, any sickness absence by a pregnant employee for a pregnancy-related reason should not be taken into account when checking the need for formal action.

If the manager is in any doubt as to whether a pregnant employee's absence is related to their pregnancy, the manager should contact Human Resources for clarification.

### Disability-related absences

Where an employee gives as the reason for absence an underlying health issue that could amount to a disability under the Equality Act 2010, the manager should discuss the case with Human Resources. This includes where the employee states that they are suffering from stress or anxiety.

Managers should remember that we are under a duty to make reasonable adjustments for disabled employees.

### Ill-health retirement

Retirement on the ground of ill health will be considered where:

- it appears unlikely from the medical advice that an employee on long-term sickness absence will be able to return to their role; and
- they are entitled to a pension/lump sum under their pension scheme.

If ill-health retirement is raised as an option, the employee's line manager should advise the employee in the first instance to contact Human Resources. This will allow the employee to find out if they qualify for, and the financial implications of accepting, ill-health retirement.

Where an employee is suffering from a terminal illness, we will endeavour as far as possible to accommodate their wishes and to provide the most financially advantageous arrangements for them and their family. This includes discussion of the possibility of ill-health retirement or the termination of employment with a lump-sum payment under their pension scheme.

While we will support employees who wish to continue working, employees with a terminal illness should be aware that there may come a time when they will be unable to continue working. In this case, the employee's line manager will discuss the options with the employee, with the support of Human Resources.

Terminally ill employees who choose to continue working should consider that, while there is no obligation to inform CDC or any of their colleagues about the illness, it is normally better to do so to allow the proper support to be provided.

CDC provides an employee assistance programme so that the employee can access the support that they might need.

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